

EXHIBIT D

declaration from a prior application, but the continuation application is filed with a rewritten specification.

If a claim is presented for matter not originally claimed or embraced in the original statement of invention in the specification a supplemental oath or declaration is required, 37 CFR 1.67, MPEP § 603.

VI. IDENTIFICATION OF APPLICATION

37 CFR 1.63 requires that an oath or declaration identify the specification to which it is directed. The declaration form suggested by the Office includes spaces for filling in the names of the inventors, title of the invention, application number, filing date, and foreign priority application information. While this information should be provided, it is not essential that all of these spaces be completed in order to adequately identify the specification in compliance with 37 CFR 1.63(b)(1).

The following combination of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

(A) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

(B) name of inventor(s), and attorney docket number which was on the specification as filed; or

(C) name of inventor(s), and title of the invention which was on the specification as filed.

Filing dates are granted on applications filed without an oath or declaration in compliance with 37 CFR 1.63, the oath or declaration being filed later with a surcharge. The following combinations of information supplied in an oath or declaration filed after the filing date of the application are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 CFR 1.63:

(A) application number (consisting of the series code and the serial number, e.g., 08/123,456);

(B) serial number and filing date;

(C) attorney docket number which was on the specification as filed;

(D) title of the invention which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

(E) title of the invention which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the USPTO is the application which the inventor(s) executed by signing the oath or declaration.

Form paragraphs 6.05 and 6.05.20 may be used to notify applicant that the oath or declaration is defective because the specification has not been adequately identified.

¶ 6.05.20 *Specification Not Identified*

The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

Examiner Note:

This paragraph must be preceded by form paragraph 6.05.

Any specification that is filed attached to an oath or declaration on a date later than the application filing date will not be compared with the specification submitted on filing. Absent any statement(s) to the contrary, the “attached” specification will be presumed to be a copy of the specification and any amendments thereto, which were filed in the USPTO in order to obtain a filing date for the application.

Any variance from the above guidelines will only be considered upon the filing of a petition for waiver of the rules under 37 CFR 1.183 accompanied by a petition fee (37 CFR 1.17(f)).

Further an oath or declaration attached to a cover letter referencing an incorrect application may not become associated with the correct application and,

therefore, could result in the abandonment of the correct application.

Supplemental oaths or declarations in accordance with 37 CFR 1.67 will be required in applications in which the oaths or declarations are not in compliance with the other requirements of 37 CFR 1.63 but contain sufficient information to identify the specifications to which they apply as detailed above.

See MPEP § 1896 for the identification requirements for a declaration filed in a U.S. national stage application filed under 35 U.S.C. 371.

VII. COPIES OF OATHS OR DECLARATIONS ARE ENCOURAGED

A copy, such as a photocopy or facsimile transmission, of an originally executed oath or declaration is encouraged to be filed (see MPEP § 502.01), especially since applications are maintained in electronic form, not paper. The original should be retained by applicant, or his or her representative as evidence of authenticity. If a question of authenticity arises, the U.S. Patent and Trademark Office may require submission of the original. See 37 CFR 1.4(d)(1)(ii).

Note

See MPEP § 602.03 for other defects in the oath or declaration.